

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

THE UNITED STATES OF AMERICA

vs.

CASE NO: 3:99CR00109-004 (HL)

MARCOS PAGAN-RODRIGUEZ

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**URGENT MOTION NOTIFYING VIOLATION OF SUPERVISION CONDITIONS,
REQUEST FOR EXTENSION OF SUPERVISED RELEASE TERM AND MODIFICATION
OF RELEASE CONDITIONS**

**TO THE HONORABLE HECTOR M. LAFFITTE
U.S. DISTRICT JUDGE
DISTRICT OF PUERTO RICO**

COMES NOW, HUMBERTO MARCHAND-PAONESSA, U.S. PROBATION OFFICER of this Court, presenting an official report upon the conduct and attitude of releasee, Marcos Pagán-Rodríguez, who on October 25, 1999, was sentenced to serve a 46- month imprisonment term, after he was convicted of violating Title 21 U.S. Code, Sections 846 & Title 18 U.S. Code, Sections 2; to wit: Conspiracy to possess with intent to distribute cocaine and aiding and abetting with others (A class B felony). He has been serving his four-year supervised release term since October 5, 2001 and the same is due to expire this coming October 4, 2005. As special conditions, the offender was ordered to submit to drug testing and to provide the Probation Officer access to financial information upon request.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS
FOLLOWS:**

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2. STANDARD CONDITION # 2 - "THE DEFENDANT SHALL REPORT TO THE PROBATION OFFICER AND SHALL SUBMIT A TRUTHFUL AND COMPLETE WRITTEN REPORT WITHIN THE FIRST FIVE (5) DAYS OF EACH MONTH."

Despite our constant attempts to enforce compliance with this requirement of his supervised released term, he continued a pattern of failure to submit his monthly supervision reports as required. Upon reprimands, the offender would agree to comply with this requirement, but for some reason, this verbal compromise fails to translate into action. In addition, the offender has failed to include information related his income sources and the vehicles that he owns or drives.

3. SPECIAL CONDITION # 2 - THE DEFENDANT SHALL REFRAIN FROM ANY UNLAWFUL USE OF A CONTROLLED SUBSTANCE AND SHALL SUBMIT TO ONE DRUG TEST WITHIN 15 DAYS OF RELEASE AND AT LEAST TWO PERIODIC TESTS THEREAFTER AND WHENEVER REQUESTED BY THE U.S. PROBATION OFFICER.

On September 27, 2005, the offender was instructed to submit to drug testing and the same yielded a presumptive positive to cocaine. Upon our initial confrontation, he denied any use of cocaine and the sample was sent to the laboratory for confirmation analysis. However, he admitted the same today during an interview and voluntarily signed an admission form.

4. SPECIAL CONDITION # 3 - "THE DEFENDANT SHALL PROVIDE THE U.S. PROBATION OFFICER ACCESS TO ANY FINANCIAL INFORMATION UPON REQUEST."

The Offender has failed to provide financial information as required regarding his car resale entrepreneurship he reportedly engaged in this year.

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As an alternative to revocation proceedings, Mr. Pagán-Rodríguez voluntarily agreed to sign Probation Form 49 - "Waiver of Hearing to Modify Conditions of Supervised Release or Extend Term of Supervision." In the same, he agreed to a six-month extension of his supervision term in order to participate in the random drug testing program and to include the search and seizure condition. A copy of this signed waiver is hereby attached.

WHEREFORE, in lieu of the aforementioned, it is respectfully requested that the Court, as an alternative to revocation, order that his supervised released term be extended for six additional months from his original expiration date of October 4, 2005, that his release conditions be modified to include participation in the random drug testing program and that the search and seizure condition be added as agreed and signed by the offender. Thereupon, he is to be dealt with pursuant to law.

In San Juan, Puerto Rico, this 29th day of September 2005.

Respectfully submitted,

EUSTAQUIO BABILONIA, CHIEF
U.S. PROBATION OFFICER

s/Humberto Marchand
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: U.S. Attorney's Office, and to Julio Andrés González, Esq.

At San Juan, Puerto Rico, this 29th day of September 2005.

s/Humberto Marchand
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HM/mgm